

## Department of Justice

## § 2.75

which the gravity of the offense is sufficient to warrant an upward departure from § 2.80 and denial of parole.

[65 FR 45888, July 26, 2000, as amended at 68 FR 41530, July 14, 2003]

### § 2.74 Decision of the Commission.

(a) Following each initial or subsequent hearing, the Commission shall render a decision granting or denying parole, and shall provide the prisoner with a notice of action that includes an explanation of the reasons for the decision. The decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

(b) Whenever a decision is rendered within the applicable guideline established in this subpart, it will be deemed a sufficient explanation of the Commission's decision for the notice of action to set forth how the guideline was calculated. If the decision is a departure from the guidelines, the notice of action shall include the reasons for such departure.

(c) The Commission shall resolve relevant issues of fact in accordance with § 2.19(c). Decisions granting or denying parole shall be based on the concurrence of two Commissioners, except that three Commissioner votes shall be required if the decision differs from the decision recommended by the examiner panel by more than six months. A decision terminating a parolee early from supervision shall also be based on the concurrence of two Commissioners. All other decisions, including decisions on revocation and reparole made pursuant to § 2.105(c), shall be based on the vote of one Commissioner, except as otherwise provided in this subpart.

[65 FR 45888, July 26, 2000, as amended at 69 FR 68792, Nov. 26, 2004; 74 FR 28605, June 17, 2009; 75 FR 9519, Mar. 3, 2010]

### § 2.75 Reconsideration proceedings.

(a)(1) Following an initial or subsequent hearing, the Commission may—

(i) Set an effective date of parole within nine months of the date of the hearing;

(ii) Set a presumptive parole date at least ten months but not more than three years from the date of the hearing;

(iii) Continue the prisoner to the expiration of sentence if the prisoner's mandatory release date is within three years of the date of the hearing;

(iv) Schedule a reconsideration hearing at three years from the month of the hearing; or

(v) Remand the case for a rehearing on the next available docket (but no later than 180 days from the date of the hearing) for the consideration of additional information.

(2) *Exceptions.* (i) With respect to the rule on three-year reconsideration hearings. If the prisoner's current offense behavior resulted in the death of a victim and, at the time of the hearing, the prisoner must serve more than three years before reaching the minimum of the applicable guideline range, the Commission may schedule a reconsideration hearing at a date up to five years from the month of the last hearing, but not beyond the minimum of the applicable guideline range.

(ii) With respect to youth offenders. Regardless of whether a presumptive parole date has been set, a reconsideration hearing shall be conducted every twelve months for a youth offender, and on the next available docket after the Commission is informed that the prisoner has completed his program plan.

(b) When a rehearing is scheduled, the prisoner shall be given a rehearing during the month specified by the Commission, or on the docket of hearings immediately preceding that month if no docket of hearings is scheduled for the month specified.

(c) At a reconsideration hearing, the Commission may take any action that it could take at an initial hearing. The scheduling of a reconsideration hearing does not imply that parole will be granted at such hearing.

(d) Prior to a parole reconsideration hearing, the Commission shall review the prisoner's record, including an institutional progress report which shall be submitted 60 days prior to the hearing. Based on its review of the record, the Commission may grant an effective date of parole without conducting the scheduled hearing.

(e) Notwithstanding a previously established reconsideration hearing, the Commission may reopen any case for a